



PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

9:00 a.m.
September 27, 2001

MINUTES – SPECIAL MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Christine Yorozu, Chair
Gerry Marsh, Vice Chair
Lois Clement, Secretary
Susan Brady, Member
Ronda Cahill, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Tech. Officer
Nancy Krier, Asst. Attorney General
Neil Gorrell, Asst. Attorney General

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Christine Yorozu at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Commissioner Comments

Commissioner Yorozu commented on the Governor's Leadership Conference that she and Vicki Rippie attended. She also thanked Neil Gorrell and Susan Harris for their hard work on enforcement case negotiations throughout the year.

Citizen Comments/Concerns

Jami Lund, of the Evergreen Freedom Foundation, responded to comments made at a previous meeting regarding the methods and motives of the Evergreen Freedom Foundation in checking various school districts and their compliance with RCW 42.17.680(4). Mr. Lund stated that, prior to actually visiting several school districts, EFF had communicated with all school districts about the

importance of their complying with the law. He also noted that representatives did not visit school districts during the Noon to 1:00 p.m. lunch hour.

Minutes

Moved by Commissioner Clement, seconded by Commissioner Cahill:

Motion 02-031

The Commission adopts the minutes of the regular meeting of August 28, 2001, as written.

The motion passed unanimously.

Enforcement

Hearings

Metropolitan Mortgage & Securities Company, Case #01-181

Assistant Attorney General Neil Gorrell read the Stipulation of Facts, Violations and Penalty into the record. He then summarized the case against Metropolitan Mortgage and Securities, Inc., for alleged violations of RCW 42.17.105(8) for making contributions in excess of \$5,000 during the 21 days preceding the 2000 General Election to the John J. Talbott for Strong Mayor Committee.

Commissioner Cahill noted that the local talk radio station in Spokane reported that the complaint was filed by a local newspaper reporter. After checking the Public Disclosure Commission website for confirmation, Commissioner Cahill contacted the radio station to inform them that the complaint had been PDC staff generated.

Mike Vaska, attorney for Metropolitan Mortgage and Securities Company, commented that although he respectfully disagrees with staff's interpretation of the law, he believes the matter has been resolved subject to the Commission's approval.

Nancy Krier noted that regarding the section in the stipulation that states that the Respondent reserves the right to assert its position that the

application of RCW 42.17.105 violates the U.S. and Washington State Constitutions, the Public Disclosure Commission would not be able to rule on a statute's constitutionality.

Motion 02-032

Moved by Commissioner Brady, seconded by Commissioner Cahill:

In PDC case # 01-181, Metropolitan Mortgage & Securities Company, the Commission accepts the Stipulation of Facts, Violations and Penalty of \$10,000 to be paid within 60 days from the entry of the Commission's Final Order with an additional \$10,000 suspended on the condition that there be no violations of any provision of RCW 42.17 for four years,

The motion passed unanimously.

Commissioner Yorozu noted that Vicki Rippie was authorized to sign the order on behalf of the Commission.

Mr. Gorrell reported on a staff recommendation to dismiss charges against Citizens for Fair and Open Government, Spokane Municipal Elections Council, Spokane Voter Alliance and John Talbott for Strong Mayor Committee.

Motion 02-033

Moved by Commissioner Brady, seconded by Commissioner Cahill:

The Commission dismisses the complaint against Citizens for Fair and Open Government, Spokane Municipal Elections Council, Spokane Voter Alliance and John Talbott for Strong Mayor Committee.

The motion passed unanimously.

*Seattle School District,
Case #01-200*

Neil Gorrell read the Stipulation of Facts, Violations and Penalty into the record. He then summarized the case against Seattle School

District for alleged violation of RCW 42.17.680(4) for failing to maintain open for public inspection documents and books of account and a copy of each employee's request for withholding wages for the purpose of making contributions to a political committee.

Motion 02-034

Moved by Commissioner Cahill, seconded by Commissioner Marsh:

In PDC case #01-200, Seattle School District, the Commission accepts the Stipulation of Facts, Violations and Penalty of \$1,000 with \$500 suspended based on no future violations of RCW 42.17 for four years

The motion passed unanimously.

Commissioner Yorozu noted that Vicki Rippie was authorized to sign the order on behalf of the Commission.

Leslie Martinez, Case #01-469

Phil Stutzman summarized the case against Ms. Martinez for violation of RCW 42.17.240 for failing to file a Statement of Financial Affairs by April 16, 2001. Mr. Stutzman reported that Ms. Martinez has two prior violations of RCW 42.17.240 and currently has outstanding penalties in the amount of \$650 and F-1 reports due in 1999, 2000 and 2001 have not been filed. Mr. Stutzman also noted that Ms. Martinez is not running for reelection.

Motion 02-035

Moved by Commissioner Brady:

The Commission finds a violation of RCW 42.17.240 in PDC case #01-469 against Leslie Martinez and assesses a penalty of \$150.

The motion dies for lack of a second.

Motion 02-036

Moved by Commissioner Cahill, seconded by Commissioner Clement:

The Commission finds a violation of RCW 42.17.240 in PDC case #01-469 by Leslie Martinez and assesses a penalty of \$750.

Voting for: Commissioners Cahill, Marsh, Clement and Yorozu.

Voting against: Commissioner Brady

The motion passed.

Motion 02-037

Moved by Commissioner Cahill, seconded by Commissioner Clement:

The Commission orders the assessed penalty of \$750 in PDC case #01-469 against Leslie Martinez be paid within 30 days or the matter will be forwarded to the Attorney General's Office for collection.

Voting for: Commissioners Cahill, Marsh, Clement and Yorozu.

Not Voting: Commissioner Brady

The motion passed.

Derek Young, case #01-684

Phil Stutzman summarized the case against Mr. Young for violation of RCW 42.17.240 for failing to file a Statement of Financial Affairs by April 16, 2001. Mr. Stutzman reported that Mr. Young had two prior violations of RCW 42.17.240 that had been referred to the Attorney General's Office for collection. Mr. Young paid the outstanding penalties along with the associated attorney's fees, court filing fees and interest for a total of \$1,194 on September 11, 2001. The outstanding F-1 reports for 1998, 1999, 2000 and 2001 were filed on September 13, 2001.

Mr. Young was present and addressed the Commission stating that his candidate filings have always been up to date. Mr. Young also requested that if the Commission assesses a

penalty in this case, he asked that it be minimal since he recently paid a significant penalty amount, or that the Commission suspend a large portion of any fine based on timely filing in the future.

Motion 02-038

Moved by Commissioner Cahill, seconded by Commissioner Marsh:

The Commission finds a violation of RCW 42.17.240 in PDC case #01-684 by Derek Young and assesses a penalty of \$750 with \$500 suspended based on no future violations of RCW 42.17 for four years.

Voting for: Commissioners Cahill, Marsh, Clement and Yorozu.

Voting against: Commissioner Brady.

The motion passed.

Requests for Review

David Coleman, Case #01-291

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Mr. Coleman was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Coleman was assessed a penalty of \$100.

Mr. Coleman was present and addressed the Commission stating that he has been on the school board for eight years and has filed all prior reports. He also noted that the reminder notices received from the PDC have not been sent consistently.

Commissioner Brady noted that although a position may be unpaid or voluntary, that does not make a person exempt from the reporting requirements which is the result of an initiative passed by the voters of the State of Washington. She also said that it is not the responsibility of the

PDC staff to send out notices to candidates who do not file.

Motion 02-039

Moved by Commissioner Brady, seconded by Commissioner Cahill:

The Commission upholds the violation of RCW 42.17.240 in case #01-291, David Coleman, and assesses a penalty of \$100 with \$50 suspended based on no future violations of RCW 42.17 for four years.

The motion passed unanimously.

Gregory Cox, Case #01-304

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Mr. Cox was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Cox was assessed a penalty of \$100.

Mr. Cox was present and addressed the Commission stating that in prior years he received a packet of information early in the year and was able to timely file the form. However, this year he did not receive the information and requested that the fine be dismissed.

Mr. Stutzman noted that PDC staff did in fact send the materials to the district in January and it is up to the district to distribute that information to their directors.

Russ Davis, Superintendent of Morton School District, also addressed the Commission and commented that he would like to see more communication between the PDC and superintendents of school districts.

Motion 02-040

Moved by Commissioner Cahill, seconded by Commissioner Clement:

The Commission upholds the violation of RCW 42.17.240 in case #01-304, Gregory Cox, and assesses a penalty of \$100 with

\$50 suspended based on no future violations of RCW 42.17 for four years.

The motion passed unanimously.

Carl Davis, Case #01-316

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Mr. Davis was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Davis was assessed a penalty of \$250.

Mr. Davis was present via telephone and stated that he was out of the state when the reminder notice was sent and he filed the form immediately upon returning home.

Motion 02-041

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission upholds the violation of RCW 42.17.240 in case #01-316, Carl Davis, and assesses a penalty of \$250 with \$200 suspended based on no future violations of RCW 42.17 for four years.

The motion passed unanimously.

Barbara West, Case #01-662

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Ms. West was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. West was assessed a penalty of \$100.

Ms. West was present and stated that she had been taking care of a family member with a serious illness and fell behind in a lot of her responsibilities.

Motion 02-042

Moved by Commissioner Cahill, seconded by Commissioner Clement:

The Commission upholds the violation of RCW 42.17.240 in case #01-662, Barbara

West, and assesses a penalty of \$100 with \$100 suspended based on no future violations of RCW 42.17 for four years.

Voting for: Commissioners Cahill, Clement and Marsh.

Voting against: Commissioners Yorozu and Brady.

The motion passed.

Gregory Barnes, Case #01-249

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001 in which Mr. Barnes was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs.

Mr. Barnes provided a letter stating that he is having financial hardships as a result of a divorce.

Motion 02-043

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission upholds the violation of RCW 42.17.240 in case #01-249, Gregory Barnes, and assesses a penalty of \$250 with \$200 suspended based on the condition that the remaining \$50 is paid within 30 days from the date the order is signed.

The motion passed.

Terry Cress, Case #01-308

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Mr. Cress was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Cress was assessed a penalty of \$100.

Mr. Cress provided a letter stating that most of the home addresses had been changed in the City of Richland and mail had been distributed incorrectly.

There was no motion to review this matter.

Richard Dixon, Case #01-322

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Mr. Dixon was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Dixon was assessed a penalty of \$100.

There was no motion to review this matter.

Linda Lamb, Case #01-446

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Ms. Lamb was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. Lamb was assessed a penalty of \$100.

Ms. Lamb provided a letter stating that she had filed the form two times previously and she should not be assessed a penalty for circumstances beyond her control.

There was no motion to review this matter.

Patrick McCulley, Case #01-476

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Mr. McCulley was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. McCulley was assessed a penalty of \$100.

Mr. McCulley provided a letter stating that he had mailed the form at the end of March and he resigned his position on March 23, 2001.

Motion 02-044

Moved by Commissioner Brady, seconded by Commissioner Marsh:

The Commission upholds the violation of RCW 42.17.240 in case #01-476, Patrick McCulley, and assesses a penalty of \$100 with \$50 suspended based on no future violations of RCW 42.17 for four years and

**payment of the non-suspended penalty
within 30 days.**

The motion passed unanimously.

Joani Rise, Case #01-567

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Ms. Rise was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. Rise was assessed a penalty of \$100.

Ms. Rise provided a letter stating that she had been dealing with personal tragedies in her life that resulted in her failure to timely file her form.

There was no motion to review this matter.

Stephen Ruhl, Case #01-575

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Mr. Ruhl was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Ruhl was assessed a penalty of \$100.

Mr. Ruhl provided a letter stating that he had retired from his position in October 2000 and he was under the impression that his previous filing had satisfied the requirements.

Motion 02-045

Moved by Commissioner Cahill, seconded by Commissioner Clement:

**The Commission vacates the order in PDC
case #01-575, Stephen Ruhl.**

The motion passed unanimously.

Thomas Stevenson, Case #01-606

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Mr. Stevenson was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Stevenson was assessed a penalty of \$100.

Mr. Stevenson provided a letter stating that he was out of the country for a month and it took quite a bit of time to become current in his affairs.

There was no motion to review this matter.

Ann Wushut, Case #01-653

Mr. Stutzman reported that a brief enforcement hearing was held July 30, 2001, in which Ms. Washut was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. Washut was assessed a penalty of \$100.

Ms. Wushut provided a letter stating that she believed the report had been prepared by her accountant at the same time her taxes were prepared and she failed to follow up on that.

There was no motion to review this matter.

Lynn Watts, Case #01-655

Mr. Stutzman reported that Ms. Watts cancelled her request for review via email on September 26, 2001.

Request for Reconsideration

William Wulff, Case #01-683

Mr. Stutzman reported that a hearing was held on August 28, 2001, in which Mr. Wulff was found to have violated RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Wulff was assessed a penalty of \$1,000 with \$500 suspended.

There was no motion to reconsider this matter.

Petition for Intervention

Neil Gorrell reported on a Petition for Intervention by Washington Education Association Political Action Committee (WEA-PAC) in the enforcement action against Tacoma School District.

Michael Gawley, attorney representing WEA-PAC, reported that WEA-PAC seeks to intervene in this matter to protect the statutory and constitutional rights of its members since the forms contain personal and private information.

Mr. Gorrell commented that staff disagrees with the intervention since it is not in the public interest or judicial economy to bring in additional parties. Mr. Gorrell suggested that permitting WEA-PAC to file an Amicus Brief would be a reasonable alternative to intervention.

Assistant Attorney General Nancy Krier noted that a letter was received from the Tacoma School District stating that they did not object to the intervention. Ms. Krier also commented that the PDC statutes and rules do not allow for intervention and requested clarification on which statute WEA-PAC was relying.

Mr. Gawley responded by saying that although the Civil Rules do not apply directly, he feels it is within the Commission's discretion to grant the intervention.

Motion 02-046

Moved by Commissioner Cahill, seconded by Commission Clement:

Based on the fact that there is no provision of law authorizing intervention, the Commission denies the Petition for Intervention by Washington Education Association Political Action Committee, but approves submission of an Amicus Brief by October 8, 2001, with response by PDC staff by October 15, 2001. The order will be prepared by Assistant Attorney General Nancy Krier, signed by Commission Chair Christine Yorozu and submitted via fax.

The motion passed unanimously.

Reporting Modification Requests

New

*LeeAnn Powers, School Director
Candidate, Central Kitsap School
District No. 401*

Mr. Stutzman reported that Ms. Powers requests an exemption from reporting the business customers and other government agencies of Powers Enterprises, Inc., dba Shoreline Subaru, and West Hills Co. Inc., dba West Hills Honda, corporations in which she and her spouse own an interest.

Motion 02-047

Moved by Commissioner Brady, seconded by Commissioner Cahill:

The Commission grants the reporting modification to LeeAnn Powers consistent with the PDC Protocol for Motor Vehicle Dealers.

- 1. The applicant may satisfy the reporting requirements of RCW 42.17.241(1)(g) by identifying for the appropriate reporting period:**
 - (a) All purchases and leases of vehicles, and purchases of parts and services by Central Kitsap School District No. 401 from Powers Enterprises, Inc., dba Shoreline Subaru, and West Hills Co. Inc., dba West Hills Honda;**
 - (b) Business customers and governmental entities other than Central Kitsap School District No. 401 that purchased or leased ten (10) or more vehicles from Powers Enterprises, Inc., dba Shoreline Subaru, and West Hills Co. Inc., dba West Hills Honda;**

- (c) **Business customers who paid in excess of \$15,000 for the purchase of parts and/or service from Powers Enterprises, Inc., dba Shoreline Subaru, and West Hills Co. Inc., dba West Hills Honda; and**
- (d) **All governmental entities other than Central Kitsap School District No. 401 that paid in excess of \$7,500 for the purchase of parts and/or service from Powers Enterprises, Inc., dba Shoreline Subaru, and West Hills Co. Inc., dba West Hills Honda.**

- 2. **The applicant, if elected, shall recuse herself from participating in decisions in her elected or appointed capacity affecting the interests of the business of the applicant or the applicant's spouse for which the reporting modification was requested.**

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Michael R. Winch, City Council
Candidate, City of Mill Creek*

Mr. Stutzman reported that Mr. Winch is requesting an exemption from reporting business and governmental customers of Communication Resources NW, LLC, a corporation in which he and his spouse own an interest.

Motion 02-048

Moved by Commissioner Cahill, seconded by Commissioner Clement:

The Commission grants the reporting modification for Michael R. Winch as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Renewals (with changes)

*Cynthia Sullivan, King County
Council Member*

Mr. Stutzman reported that Ms. Sullivan is requesting an exemption from reporting business and governmental customers of Hebert Research, Inc., a corporation owned by her spouse.

Commissioner Brady expressed concern because Hebert Research does political research and surveys that may result in a conflict of interest.

The Commission requested further information be obtained from Ms. Sullivan and tabled the matter until the October meeting.

Executive Session

The Commission went into executive session at approximately 12:15 p.m. to discuss pending and potential litigation with legal counsel.

Public Session

The Commission returned to public session at 1:30 p.m.

Orientation Session

RCW 42.17.350

Assistant Attorney General Nancy Krier briefed the commissioners on the statutory constraints imposed on them during their tenure as members of the Commission.

RCW 42.30 Open Public
Meetings Act

Ms. Krier summarized the Open Public Meetings Act noting that section 42.30.110 regarding executive sessions has recently been amended.

RCW 34.05 Rulemaking

Ms. Krier briefed the Commission on statutes that impact rulemaking. She also summarized the procedures under the Administrative Procedure

Act that must be followed for each stage of the rulemaking process.

RCW 34.05 Adjudicative
Proceedings

Ms. Krier explained the statute that governs the process for Commission enforcement hearings, emphasizing provisions relating to ex parte communication and the duties of the presiding officer.

RCW 42.52 Ethics in Public
Service

Ms. Krier also reported on Ethics in Public Service and summarized the duties of the legislative and executive ethics boards.

RCW 42.36 Appearance of
Fairness Doctrine – Limitations

Ms. Krier commented on the statute governing the need for actual fairness as well as the appearance of fairness, noting that in the event of a challenge to a member's participation which would cause a lack of a quorum, that challenged member would be permitted to participate fully in the proceeding and vote.

Adjournment

Commissioner Yorozu adjourned the meeting at approximately 3:00 p.m. The next meeting is scheduled for Tuesday, October 23, 2001.

Approved by the Commission 10/23/01